

**Remark:**

Claims 1-24 were pending. No claims have been canceled. No claims have been added. Hence, claims 1 – 24 remain pending.

**Examiner Interview Summary**

Agent for the Applicant sincerely thanks the Examiner for her participation in an Examiner interview conducted by telephone on Tuesday, June 20, 2006. In attendance were Examiner Kerri M. Dyke and Agent for the Applicant, Damon Rieth. Claims 1, 7, 8, 10, 12, 16, and 18 were discussed. Cited references that were discussed were Doshi, Russ, and Commerford. Agreement was reached. It was agreed that Doshi (Overview of INDT - A New Tool for Next Generation Network Design) does not teach or suggest at least “configuring the network to build a private line circuit in accordance with a private line design that is valid” of claim 1 or similar elements related to configuring recited in the other independent claims (claims 7, 12, 16, and 19). As such, the claim rejections based on Doshi will be withdrawn.

Figure 2 of the present Application was discussed to illustrate one exemplary embodiment of the invention. The embodiment of Figure 2 includes automation of the design and configuration, and testing of the design before implementation. Russ, by contrast, discusses verifying network integrity of a restored physical path in a network after a failure. As such, Russ does not test the design before implementing, and is not intended to test the design. Commerford concerns restoring communications within a network following an outage. A database of broken network segments is created based on the physical network parameters associated with the outage. As such, Commerford’s database update is not made during a design phase. By contrast, the testing and marking recited in claim 8 relates to whether an element is actually available in the design.

**Rejections under 35 U.S.C. § 103(a)**

In the final Office action, the Examiner maintained the rejections of claims 1 – 6 under 35 U.S.C. 103(a) as being unpatentable over Doshi in view of Russ et al. (U.S. 5,841,759). The Office Action rejects claims 7 – 9, and 11 under 35 U.S.C. § 103(a) as purportedly being unpatentable over Doshi in view of Kondo et al. (U.S. Patent No. 5,586,254) (hereafter, Kondo) further in view of Commerford et al. (U.S. Patent No. 6,134,671) (hereafter Commerford). The

Office Action rejects claims 10 and 12 – 24 under 35 U.S.C. § 103(a) as purportedly being unpatentable over Doshi in view of Kondo further in view of Commerford further in view of Russ. Applicant traverses these rejections. Prior to discussing each of the claim rejections in detail, the Application and the cited references are summarized.

The present application relates to methods and systems for designing a route, validating the designed route against an asset inventory, configuring physical components based on the design, and reperforming these steps in an automated fashion if the actual implementation fails. See, e.g., Fig. 2. One benefit of the invention is time saved in the design and implementation of a private line to the user. See e.g., p. 3, ll. 1 – 6.

The Doshi article is entitled “Overview of INDT – A New Tool for Next Generation Network Design”. Doshi’s system includes “i) a private line network *design* module, ii) a switched voice network *design* module, iii) an integrated switched voice and private line network design module, iv) an integrated multimedia ATM network *design* module, v) a hybrid SONET ring access/mesh backbone network *design* module and vi) interconnected SONET ring network *design* module.” *Doshi*, p. 1942 (emphasis added). Doshi’s whole design process is executed on a SUN Workstation. *Id.* at 1943. As agreed to in the Examiner interview (summarized above), Doshi’s indication that “... the constrained design makes an optimal selection from among existing node locations and interconnects them via existing fiber routes...” does not suggest an actual physical connection of nodes. *Id.* As such, Doshi discusses a particular system for designing a network.

Russ relates to verifying integrity of *a restored physical path* in a network after a failure. *Russ*, col. 1, ll. 65 – 67. Russ’s system is focused on physical path verification, rather than design verification. For example, Russ’s invention “utilizes a path verification method and system to provide a true continuity check.” *Id.*, col. 2, ll. 6 – 7. As summarized above, Russ does not test the design before implementing.

Like Russ, Kondo relates to checking actual physical connectivity, rather than designing, configuring or activation of a network. Kondo’s system can reduce the work of a network manager by checking for a physical connection and displaying the state of the physical locations of the network devices. *Kondo*, col. 11, ll. 25 – 26; col. 12, ll. 15 – 18. The system can also grasp the performance of the network by determining the amount of communication through the

communication path. *Id.*, col. 12, ll. 28 – 32. As such, Kondo’s system is directed at physical network monitoring, and not configuring a network based on a validated design.

Commerford relates to restoring communications within a network following an outage. *Commerford*, col. 2, ll. 10 – 21. Network parameters are received after the outage. *Id.* A database of broken network segments is created based on the physical network parameters associate with the outage. *Id.* As summarized above, Commerford’s database is not updated during a design phase.

### **Rejections of Claims 1 – 6**

With regard to claim 1, the Office initially asserted that Doshi discloses “configuring the network to build a private line circuit in accordance with a private line design that is valid.” As discussed above in the Examiner Interview Summary, it was agreed that Doshi does not teach or suggest at least “configuring the network to build a private line circuit in accordance with a private line design”. Also as discussed herein, Russ does not test a design prior to implementation. For at least these reasons, Doshi and Russ neither teach nor suggest all the elements of claim 1. As such, Applicant believes claims 1 – 6 are allowable.

### **Rejections of Claims 7 – 9 and 11**

In its rejection of claim 7, the Office asserted that Commerford discloses delivering the network service with another route and circuit design if bad network components are found. As it is worded, this rejection fails to address all the words of the last element of claim 7, which states “...if bad network components are detected during *provisioning or configuring*, controlling the routing engine, the provisioning system and the service management system to retry delivering the network service with another route and circuit design.” Because the rejection fails to address all the claim elements of claim 7, a prima facie case of obviousness has not been set forth. For this reason alone, claim 7 and its dependents are allowable.

In addition, as discussed above, Commerford builds a database of broken network parts based on network parameters received after an outage. Commerford does not discuss creating a circuit design of network components or retrying of creating a circuit design of network components. As such, Commerford neither teaches nor suggests at least “...if bad network components are detected during the *provisioning or configuring*...” For at least this additional reason, claim 7 and its dependents are believed to be allowable.

Regarding claim 7, the Office also asserted that Kondo discloses a service management system configuring and activating network components in the design based on actual network components in the network. As presently understood by the undersigned, Kondo's system provides for monitoring or detecting of network devices, such as checking a network environment for physical connectivity, displaying the state of physical locations of the network devices, or displaying the amount of communication through the communication path. *Kondo*, col. 11, ll. 23 – 27; col. 12, ll. 15 – 42. As such, Kondo neither teaches nor suggests a service management system **configuring and activating** network components in the design based on actual network components in the network. For at least this additional reason, claim 7 and its dependents are believed to be allowable.

#### **Rejections of Claims 10 and 12 – 24**

The Office rejected claims 10 and 12 – 24 using Doshi, Kondo and Commerford on substantially the same grounds as the rejections of claims 7 – 9 and 11, and includes Russ for the apparent disclosure of validity testing a circuit design. For the same reasons as are given above with respect to the rejections of claims 7 – 9 and 11, Doshi, Kondo, and Commerford neither teach nor suggest the elements of claims 10 and 12 – 24 which the Office alleges.

In its rejection of claims 10, 12, 16, and 18 the Office also asserts that Russ discloses a method of testing a network path, and apparently relies on this assertion as a teaching of “validity testing a circuit **design**”. As discussed above, Russ does not validity test a circuit design. Therefore Russ cannot be relied on for a teaching of validating a design and the Office has not shown any disclosure in the prior art of “validating a circuit design”. For at least this reason, claims 10, 12, 16, and 18 are believed to be allowable.

Even assuming *arguendo* that the cited references show the elements or concepts urged by the Office, the Office has not presented any reason, and the undersigned knows of none, as to why one skilled in the art, viewing only the collective teachings of the references, would have found it obvious to selectively pick and choose various elements and/or concepts from the four references relied upon to arrive at the invention claimed in claims 10 and 12 – 24. See *Ex Parte Clapp*, 227 USPQ 972 (PTO Bd App. 1985); *In Re Horn*, 203 USPQ 969 (CCPA 1979). The collection of references supports the inescapable conclusion that the Office has pieced the references together to support a rejection on the basis of hindsight.

**Conclusion**

This Amendment and the foregoing remarks fully respond to the Office Action mailed on April 12, 2006. Still, the Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment to directly address an argument raised in the Office Action should not be taken as an indication that the Applicant believes the argument to have merit. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the art of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

Should the Examiner have any remaining questions or concerns, she is encouraged to contact the undersigned attorney by telephone (303-447-7739) to expeditiously resolve such concerns. No other fees are believed due for submission of this Amendment. However, if this is not the case, please charge any such fees to Deposit Account No. 06-0029. Alternatively, please credit any overpayment to the same Deposit Account.

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Respectfully submitted,



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